

REMARKS

Claims 1-13, 16 and 17 are pending in the application.

The Specification has been updated to indicate the status of a related application at page 1, lines 6-9.

Claims 1-13, 16 and 17 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In particular, the Examiner indicated lack of antecedent basis for certain terms in the claims. The claims have been amended to provide proper antecedent basis for the noted terms. Reconsideration of the rejection under 35 U.S.C. §112, second paragraph, is respectfully requested. Other claim amendments are being made for clarity.

Claims 9-12 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Examiner interpreted the claims as being directed to “system of software per se” and “failing to fall within a statutory category of invention”. The Examiner noted the view also that the application contains no explicit definition for the term “module” and concluded that “module” be interpreted as software. The Examiner referred to MPEP §2106.

Applicants respectfully disagree with the Examiner’s rejection under 35 U.S.C. §101. The claimed subject matter of claim 9 is not merely a set of instructions capable of being executed by a computer. Applicants recite an Internet node that includes an idle detect module and an idle generator module. An embodiment is described in the specification in connection with Figure 2, which shows Internet node/gateway 200 and idle generate 272 and idle detect 274 (see specification page 8, line 28 – page 9, line 3). One of ordinary skill in the art would reasonably understand from Figure 2 and the description in the specification that the idle generate module 272 and the idle detect module 274 could be implemented in hardware, firmware or software. Furthermore, the claimed subject matter produces a useful, tangible and concrete result, as the recited modules operate on data packets.

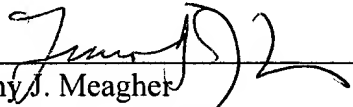
Reconsideration of the rejection under 35 U.S.C. §101 is respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By  _____
Timothy J. Meagher
Registration No. 39,302
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133

Date: 2/11/8